XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

R3

22/12/07

मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 646 of 2007

APPELLANT (In Jail)	:	Basant @ Ledga S/o Jhuru Ram Yadav, Aged about 41 years, Occupation – Labour R/o Bedhwapathra P.S. Sihawa, Distt. Dhamtari (CG)
	Versus	
RESPONDENT	:	State of Chhattisgarh Through P.S. Sihawa Distt. Dhamtari (CG)

Present:

Mr. Sanjeev Kumar Agrawal, counsel for the appellant.

Mr. Ravindra Agrawal, Panel Lawyer for the State/respondent.

ORAL JUDGMENT

(20th December 2007)

Dhirendra Mishra, J

This criminal appeal is directed against the judgment of conviction and order of sentence dated 30th June 2007 passed in S.T.No. 14/07 whereby learned Special Judge (Narcotic Drugs and Psychotropic Substances Act) Dhamtari (CG) has convicted the appellant under Section 20(a)(1) of the N.D.P.S. Act and sentenced him to undergo RI for two years, pay a fine of Rs.10,000/-and in default thereof to undergo additional SI for four months.

XI-HC/-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(21)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Learned counsel for the appellant submits that he is not pressing this appeal against conviction. It is further submitted that the appellant has already undergone jail sentence of two years imposed on him and since he is a poor person and not able to pay the fine amount, he is undergoing the jail sentence in default of payment of fine amount. The appellant has already undergone more than two years and two months of jail sentence, therefore, in the interest of justice, the sentence may be modified and he may be sentenced to the period already undergone by him. From perusal of the impugned judgment and the evidence available on record, it is observed that the charge against the appellant was that he was engaged in cultivation of cannabis plants and 19 prohibited cannabis plants were seized from his kitchen garden. The trial Court on the basis of evidence on record, relying upon the deposition of investigating officer M.D. Tiwari (PW-9), which is positively corroborated from the statement of independent witness Ram Prasad (PW-7) has convicted the appellant under Section 20(a)(i) of the N.D.P.S. Act and sentenced him to undergo RI for two years, pay a fine of Rs.10,000/- and in default of payment, to undergo additional SI for four months. From perusal of the impugned judgment it is also seen that the appellant is in jail since 16.10.2005 and as such, has already completed more than two years and two months of jail sentence	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(25)

मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

imposed upon him and is still undergoing the jail sentence in default of payment of fine of Rs.10,000/-.

Taking into consideration the fact that the appellant has already completed the jail sentence imposed on him and has also completed jail sentence of two months in default of payment of fine amount, this Court is of the opinion that ends of justice would be served if the SI of four months imposed on the appellant in default of payment of fine amount is reduced to the period already undergone by him and he is directed to be set at liberty forthwith if not required in any other case.

Ordered accordingly.

Sd/-
Dhirendra Mishra
Judge